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ABSTRACT

This is the text of the law governing the New York City Community School District System. The law defines the relationship of the Board of Education of the City with the Community School Districts and the means by which the Community Districts are to be governed. The composition of the District School Boards and the election procedure for them are delineated. Also described are the powers and duties of the District Boards, the Community Superintendents, the City Board, and the Chancellor. Finally, the law considers budgetary matters and appointment of teaching personnel. (WP)

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DEC 3 - 1979

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NEW YORK CITY

COMMUNITY SCHOOL DISTRICT

SYSTEM

As established by the Education
Law of New York State and
amendments through December 31, 1978

DIVISION OF PUBLIC AFFAIRS
110 Livingston Street
Brooklyn, New York 11201

UD 020 029

U.S. DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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ARTICLE 52-A-NEW YORK CITY COMMUNITY SCHOOL DISTRICT SYSTEM

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2590 APPLICATION OF ARTICLE

This article shall apply to the city school district of the city of New York.

Added L. 1969,c.330, § 4.

2590-a. DEFINITIONS

As used in this article, the following terms shall mean:

1. City district. The term "city district" shall mean the city school district of the city of New York.

2. Community district. The term "community district" shall mean a community school district created or to be created within the city district under the provisions of this article.

3. City board. The term "city board" shall mean the board of education of the city district.

4. Community board. The term "community board" shall mean the board of education of a community district.

5. Chancellor. The term "chancellor" shall mean the chancellor of the city district.

6. Community superintendent. The term "community superintendent" shall mean the superintendent of schools of a community district.

7. Parent. The term "parent" shall mean a person in parental relation to a child, as that phrase is defined in subdivision ten of section two of this chapter.

8. Registered voter. The term "registered voter" shall mean an elector of the city of New York under the election law.

Added L.1969, c.330, § 4; amended L.1970, c.3, § 1, eff. Jan. 13, 1970

2590-b. CONTINUATION OF CITY BOARD AND ESTABLISHMENT OF COMMUNITY DISTRICTS

1. (a) The board of education of the city school district of the city of New York is hereby continued. Such board of education shall consist of seven members, a member to be appointed by each borough president of the city of New York and two by the mayor. Each borough president appointee shall be a resident of the borough for which the borough president appointing him was elected. Two members at large shall be appointed by the mayor of the city of New York. Each mayoral appointee shall be a resident of such city. The term of office of each member shall be four years, commencing the first day of July, nineteen hun-

dred seventy-four and every four years thereafter. A vacancy occuring other than by expiration of term of a member appointed by a borough president shall be filled for the unexpired term by appointment by the appropriate borough president of a person who is a resident of such borough. The mayor shall fill vacancies for an unexpired term of any of his apointees. The president of the board shall be chosen by the members. The members of the board shall receive such compensation as may be provided by local law.

(b) The members to be appointed by the borough presidents shall be appointed not earlier than April first, nineteen hundred seventy-four and their successors thereafter.

The mayor of the city of New York shall appoint two members not earlier than April first, nineteen hundred seventy-four and not later than June first, nineteen hundred seventy-four and their successors thereafter.

2. (a) There shall be a community board for each community district created pursuant to this article.

(b) The city board shall define the boundaries of the community districts and the number of members on each community board. No community district shall contain less than fifteen thousand pupils in average daily attendance in the schools under its jurisdiction nor shall the boundaries of any such district cross county lines, provided, however, that residents of the county of New York in shcool district ten as it existed prior to the implementation of this paragraph, shall continue to remain in schools district ten as such district is comprised pursuant to the implementation of this paragraph. There shall be no less than thirty nor more than thirty-three community districts.

(c) The city board shall provide for the personal and mail registration of persons qualified, pursuant to subdivision three of section twenty-five hundred ninety-c, to vote as "registered voters" and "parents."

(d) The city board may readjust or alter the districts in such plan only once in every third year commencing with the year nineteen hundred seventy-seven. Not earlier than six months nor later than three months prior to the effective date of such plan, the city board shall hold a public hearing or hearings thereon.

3. The criteria to be observed in dividing the city district into community districts and in determining the number of members on each community board shall include:

(a) taking into account the common and special educational needs of the communities and children involved, transportation facilities, and existing and planned school facilities:

(i) suitable size for efficient policy-making and economic management;

(ii) convenient location for the attendance of pupils and geographic contiguity;

(iii) reasonable number of pupils;

(iv) heterogeneity of pupil population; and

(b) relationship to geographic areas for which the city of New York plans and provides services.

Added L.1969, c.330 § 4; amended L.1970, c. 3, §§ 2, 3, eff. Jan. 13, 1970; L.1070, c.7, eff. Feb.e, 1970, retroactive to Feb 1, 1970; L. 1970, c.47, eff. March 6, 1970.

As amended L. 1971, c.6; L. 1972, c.29, § 2; L.1973, c.27, § 1; L.1973, c. 915, § 1; L.1974, c.137, § 1; L.1974, c.138, § 3; L.1976, c.553, § 2, L.1976 c.871 § 1.

2590-c. COMPOSITION OF COMMUNITY BOARDS

1. Each community district shall be governed by a community board to consist of not less than seven nor more than fifteen members to be elected for a term of three years and to serve without compensation. Each such board shall select one of its members to serve as chairman.

2. Such members shall be elected at an election conducted by the board of elections in the city of New York to be held on the first Tuesday in May commencing with the year nineteen hundred seventy-seven and every third year thereafter for a term commencing on the first day of July next following.

3. Every registered voter residing in a community district and every parent of a child attending any school under the jurisdiction of the community board of such district who is a citizen of the state, a resident of the city of New York for at least thirty days and at least eighteen years of age shall be eligible to vote at such election for the members of such community board, except that no person may vote more than once or in more than one community district.

4. Every registered voter residing in a community district and every parent of a child attending any school under the jurisdiction of the community board of such district who is a citizen of the state, a resident of the city of New York for at least ninety days prior to the date of the election, and at least eighteen years of age shall be eligible for membership on such community board. No person may serve on more than one community board. A member of a community board shall be ineligible to be employed by the community district of which he is a board member

5. Each registered voter shall vote at such polling place within his community district as shall be designated by the board of elections in the city of New York. Each person voting

as a parent shall vote at such polling place within his community district as shall be designated by the city board. The polls of such elections shall be open between the hours of six o'clock in the foremoon and nine o'clock in the evening on the days of elections.

6. The members of each community board shall be elected by proportional representation in accordance with the following rules:

(1) Nomination by petition. Candidates for community board members shall be nominated by petitions in accordance with regulations, not inconsistent with the provisions of this article, promulgated by the city board, and approved by the board of elections in the city of New York. Such petitions shall be filed with the board of elections at least four weeks before the elections.

(2) Number of signatures. Such nominating petition shall be signed by not fewer than two hundred registered voters residing in such community district, or persons eligible to vote as parents in such community district pursuant to subdivision three of this section.

(3) Separate petitions and signers. Each candidate shall be nominated by a separate petition and no elector shall sign more than one such petition. Should an elector sign more than one such petition, his signature shall be void except upon the petition first signed.

(4) Nonpartisan petitions. No candidate shall be identified by political party or other organizational affiliation on the nominating petitions.

(5) Paper ballots. Community Board members shall be voted for, in accordance with the instructions provided in paragraph seven, on paper ballots on which the candidates are listed by name only. The ballots shall conform to the provisions of the election law for paper ballots, so far as applicable, except as to size and as hereinafter provided. The ballots shall contain a square for voting before each candidate's name.

(6) Order of names on ballot. The names of the candidates shall be printed in the alphabetical order to their surnames, except that they shall be rotated by polling places by transposing the first named candidate to the bottom of the order at each suceeding polling place; so that each name shall appear first and in each other position in an equal number, as nearly as possible, of the polling places.

(7) Instructions to voters. There shall be no indication on the ballot of a definite number of candidates to be voted for. The instructions to voters shall read as follows:

INSTRUCTIONS

Mark Your Choices with NUMBERS Only.

(Do NOT use X Marks.)

Put the number 1 in the square opposite the name of your first choice.

Put the number 2 opposite your second choice, the number 3 opposite your third choice, and so on. You may mark as many choices as you please.

Do not put the same number opposite more than one name.

To vote for a person whose name is not printed on this ballot, write his name on a blank line under the names of the candidates and put a number in the square opposite to show which choice you wish to give him.

If you tear or deface or wrongly mark this ballot, draw lines across its face to prevent its being used, return it and obtain another.

(8) Central count. Prior to every election at which community board members are to be elected, the Board of Elections shall designate a central counting place for each community district where the ballots shall be brought together and counted publicly; shall appoint for each district a board of two competent persons, to act as directors of the count for such district; shall employ a sufficient staff of assistants for each district, and shall make suitable arrangements for the counting and recording of the ballots, subject to the provisions of this article. The board of elections shall prepare and provide forms and equipment.

(9) Assembling ballots. As soon as the polls have closed, the election officials assigned by the board of elections at each polling place shall seal the ballot boxes without opening them and shall send them at once, as the board of elections may direct, to the central counting place for the district with a record of the number of ballots for the community board members who have been voted in their polling place.

(10) Checking number of ballots. At the central counting place the number of ballots for the community board member found in each ballot box shall be recorded and compared with the record sent from the corresponding polling place. The records thus compared shall be made available to the public with the notations explaining any corrections or changes made therein. Discrepancies which cannot be reconciled shall be shown on the record. All ballots found in the ballot boxes which bear no evidence of having been improperly cast shall be accepted.

(11) Sorting of ballots. Ballots shall be sorted by polling places in an order determinded by lot.

(12) Rules for validity. If a ballot does not clearly show which candidate the voter prefers to all others or if it contains the signature of the voter, it shall be held as invalid. Every ballot not thus invalid shall be counted according to the intent of the voter so far as that can be clearly ascertained, whether marked according to the instructions printed on it or not. No ballot shall be held invalid because it is marked in ink or pencil different from the one supplied at the polling place, or because the names of candidates thereon have been stricken out by the voter. Any cross mark or check mark shall be disregarded, except that a single cross mark or check mark on a ballot on which no number one appears shall be considered equivalent to the number one. If the consecutive numerical order of the numbers on a ballot is broken by the omission of one or more numbers, the smallest number marked shall be taken to indicate the voter's first choice, the next smallest his second, and so on, without regard to the number or numbers omitted.

(13) Count of first choices. At the beginning of the count for each district the ballots shall be sorted and counted according to the first choices marked on them. The ballots shall be so credited to the candidates of their choice in the order of polling places chosen by lot as specified in paragraph eleven of this subdivision. The number of valid ballots cast for each candidate as first choice in each polling place and the total number of valid ballots for each candidate and for all candidates shall be determined and recorded.

(14) Single transferable vote. Each candidate shall be credited with one vote for every ballot that is sorted to him as first choice or transferred to him as hereinafter provided, and no ballot shall ever be credited to more than one candidate at the same time.

(15) Quota sufficient to elect. The quota of votes sufficient to elect a community board member shall be determined by dividing the total number of valid ballots cast in the community district by one more than the number of members to be elected for the district and adding one to the result, disregarding fractions. This is the smallest number of ballots which could be received separately by each of as many candidates as are to be elected but not by one more.

(16) Election of candidates with quotas. All candidates whose first-choice ballots equal or exceed the quota shall be declared elected.

(17) Transfer of surplus ballots. All of the surplus ballots in excess of the quota of each candidate so elected shall be transferred from him, each to the unelected candidate indicated on it as next choice among such candidates. The ballots to be so transferred as surplus ballots shall be those last received by the candidate in the count of first choices which show a clear next choice for an unelected candidate. All ballots which show no such clear next choice shall be left to the credit of the candidate of their first choice. If more than one candidate has first-choice ballots in excess of the quota, the surplus ballots of the candidate with the most ballots shall be transferred first, then those of the candidate with the next most ballots, and so on.

(18) Election of candidates during transfers. Whenever during any transfer of ballots, at any stage of the counting, the number of ballots credited to a candidate becomes equal to the quota, he shall be declared elected and no ballots in excess of the quota shall be transferred to him. Any transferred ballots in excess of the quota which show a next choice for such candidate shall be transferred further at once, each to the next subsequent choice on it for a continuing candidate. A "continuing candidate" is a candidate not yet elected or defeated. If such a ballot shows no further choice, it shall be set aside as "exhausted."

(19) Defeat of lowest candidates. After the count of first choices and the transfer of all surplus ballots, if any, the candidates having the fewest votes to their credit shall be successively defeated and their ballots transferred as hereinafter provided. The one candidate with the fewest votes, shall be declared defeated first. If at this point, two or more of the candidates with the next fewest votes, including any such candidates whose names have been written in, have together fewer votes than the candidate next higher in number of votes, they may all be declared defeated together unless this would reduce the number of undefeated candidates below the number to be elected.

(20) Transfer of ballots from defeated candidates. All the ballots of the candidates thus defeated shall be transferred, each to the candidate indicated on it as next choice among the continuing candidates. If a ballot shows no such further choice, it shall be set aside as exhausted. If the same choice is marked for more than one candidate, it shall be disregarded except as to continuing candidates, but if the next choice for a continuing candidate is marked for more than one continuing candidate, the ballots shall be set aside as exhausted.

(21) Defeat of candidate then lowest. When all the ballots of the candidate or candidates first defeated have been transferred, the one candidate who is then lowest on the poll shall be declared defeated and all his ballots transferred in the same way.

(22) Successive defeats and transfers of ballots. Thereupon the candidate who is then lowest on the poll shall be declared defeated and all his ballots similarly transferred. The lowest candidates shall be declared defeated one at a time and all their ballots transferred until the election is at an end as hereinafter provided.

(23) Order of transfer. When ballots are being transferred from defeated candidates, they shall be transferred in the reverse order to that in which they were credited to the candidate whose ballots are being transferred, except that if no quota can possibly be completed for another candidate during the transfer they may be transferred in any order.

(24) Ties. In deciding any tie a candidate shall be treated as having more votes than another if he was credited with more votes at the end of the last preceding transfer or sorting of ballots at which the numbers of their votes were different. Any tie not thus decided shall be decided by lot.

(25) Election ended when all quotas are completed. If at any time as many candidates as are to be elected have received the quota, the other candidates shall all be declared defeated and the election shall be at an end. Any transfer that is in progress when the last candidate is elected may be completed for the record.

(26) Last candidates elected even if quotas are not completed. If at any time all ballots of any defeated candidates have been transferred and it is impossible to defeat another candidate without reducing the continuing candidates below the number still to be elected, all the continuing candidates below the number still to be elected, all the continuing candidates shall be declared elected and the election shall be at an end.

(27) Correction of errors. If at any time after the first sorting of the ballots a ballot is found to have been misplaced, it shall be credited to the candidate who should have been credited with it at that stage of the counting or set aside as exhausted if that would have been the proper disposition of it at that stage, and any changes in the disposition of the ballots composing completed quotas made necessary by the correction shall also be made forthwith. If the number of misplaced ballots found indicates that the list of continuing candidates may be incorrect, so much of the sorting and counting as may be required to correct the error shall be done over again before the count proceeds.

(28) Record of count. A record of the count shall be kept in such form as to show, after each sorting or transfer of ballots, the number thereby credited to each candidate, the number thereby found exhausted, the total for each candidate, the total found exhausted, and the total number of valid ballots found by adding the total of all candidates and the total found exhausted.

(29) Record and disposition of ballots. Every ballot that is transferred from one candidate to another shall be stamped or marked so as to show all the candidates to whom it is successively credited during the entire course of the count. If in correcting an error, or in recounting the ballots, any ballots are re-sorted or re-transferred, every such ballot shall be made to take the same course that it took in the original count unless the correction of an error requires its taking a different course.

(30) Ineligible candidates. If a candidate dies or is officially determined to be ineligible before the counting of the ballots is completed, all choices for such candidate shall be disregarded and every ballot which would otherwise have been counted for him shall be counted for the next choice thereon, if any, instead.

(31) Applicability of the election law. The provisions of the election law with respect to nomination of candidates, declination of nominations, fillings of vacancies in nominations, notices to candidates, objections to petitions, rulings thereon, judicial proceedings and all other matters so far as applicable shall govern the election of community board members by proportional representation except in the method of counting the votes and except as provision is otherwise made in this article.

(32) Supplementary regulations. Administrative regulations for the conduct of elections by proportional representation, not inconsistent with the provisions of this article, may be made by the city board and, subject to any such regulation, by the board of elections.

(33) Rights of candidates. At each election any candidate for the community board members shall be entitled, upon written application to the board of elections at least five days before said election:

(a) To exercise all the rights granted by the election law to a political party in regard to the appointment of watchers and challengers for the polls. Such watchers and challengers may exercise their respective rights at the polls until the ballots have been sent to the central counting place and may accompany the ballot boxes to the central counting place.

(b) To appoint two representatives at the count in the central counting place, who shall have full authority to move anywhere within the central counting quarters for the district, to inspect all activities of the count without interfering therewith and to exercise all rights conferred on watchers under the election law.

(c) To appoint two observers at the central counting place, who shall be given facilities for keeping in full view all ballots outside of containers and all containers of ballots at all times when such ballots are not being sorted or counted, from the time when the first ballots arrive until all ballots have been placed in containers and removed for safekeeping at the end of the count.

The board of elections shall permit substitutions for persons originally appointed.

(34) Public attendance at count. The candidates, representatives of the press and other media and, so far as may be consistent with good order and convenience, the public shall be afforded every facility for being present and witnessing the count.

a. In addition to the conditions enumerated in the public officers law creating a vacancy, a member of a community board who refuses or neglects to attend three successive meetings of his board of which he is duly notified, without rendering a good and valid excuse therefor to the other members of his board, vacates his office by refusal to serve.

b. Vacancies shall be filled for the unexpired term by the community board.

Added L. 1969, c330, § 4; amended L. 1969, c422, § 1; L. 1970, c.3, §§ 4,5, eff. Jan. 13, 1970; L. 1970, c.83, eff. Mar. 18, 1970. As amended L. 1973, c. 209, § 2; L. 1974, c. 919, § 6; L. 1976 c553 § 1

2590-d. BY-LAWS; REGULATIONS, AND DECISIONS

(1) The city board and the chancellor shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board. Said by-laws and regulations shall be published and indexed and revised at least annually. Copies of such by-laws and regulations shall be made available for public inspection at the offices of the city board, each community board, the office of the commissioner of education, and the legislative library in Albany, and at such other places as the city board may deem proper.

(2) Each community board shall prescribe such by-laws and regulations as may be necessary to make effectual the provisions of this chapter and for the conduct of the proceedings of said board. Such by-laws and regulations shall be filed with the city board and the commissioner of education and shall be made available for inspection by the public at the offices of the community board. Such by-laws shall include, but not be limited to the following requirements:

a. that there shall be a parents' association or a parent-teachers' association in each school under its jurisdiction;

b. that the board, the community superintendent and the principal of each school shall have regular communication with all parents' associations and parent-teachers' associations within the community district to the end that such associations are provided with full factual information pertaining to matters of pupil

achievement, including but not limited to: annual reading scores, comparsion of the achievement of pupils in comparable grades and schools; as well as the record of achievement of the same children as they progress through the school; provided, however, that such record and scores shall not be disclosed in a manner which will identify individual pupils.

(3) Copies of all written decisions rendered by the city board acting as an appeal board pursuant to subdivision ten of section twenty-five hundred ninety-g and copies of all written decisions rendered by the chancellor pursuant to section twenty-five hundred ninety-l shall be published, indexed and revised at least semi-annually. Copies of said decisions shall be made available for public inspection at the offices of the city board, each community board, the office of the commissioner of education, and at such other places as the city board shall deem proper.

Added L. 1969, c. 330, § 4. As amended L 1976, c.447, § 1.

2590-e. POWERS AND DUTIES OF COMMUNITY BOARDS

Each community board shall have all the powers and duties, vested by law in, or duly delegated to, the local school board districts and the board of education of the city district on the effective date of this article, not inconsistent with the provisions of this article and the policies established by the city board, with respect to the control and operation of all pre-kindergarten, nursery, kindergarten, elementary, intermediate and junior high schools and the programs in connection therewith in the community district. The foregoing shall not be limited by the enumeration of the following, each community board shall have the power and duty to:

1. a. Employ a community superintendent by contract for a term not to exceed by more than one year the term of office of the community school board authorizing such contract, subject to removal for cause, at a salary to be fixed within the budgetary allocation therefor, subject to the provisions of subdivision two of section twenty-five hundred ninety-j of this article.

b. delegate such of its administrative and ministerial powers and duties as it deems appropriate to its community superintendent and to modify or rescind any power and duty so delegated.

2. appoint, define the duties, assign, promote and discharge all of its employees and fix their compensation and terms and conditions of employment, not inconsistent with the provisions of this article or any applicable collective negotiation agreement.

3. determine matters relating to the instruction of students, including the selection of textbooks and other instructional materials; provided, however, that such textbooks and other instructional materials shall first have been approved by the chancellor.

4. generally manage and operate the schools and other facilities under its jurisdiction.

5. make repairs to all school buildings and other buildings and sites under its jurisdiction, except that the total expenditures for such repairs by any community board shall not exceed two hundred fifty thousand dollars in any fiscal year. Expenditures for repairs in excess of this limit shall be authorized only by the chancellor. Such repairs involving the expenditure of more than twenty-five hundred dollars shall be obtained by the community district only by contracts on public letting founded on sealed bids to the lowest responsible bidder.

6. operate social centers, and recreational and extracurricular programs.

7. operate cafeteria or restaurant services for pupils and teachers and for the use by the community for school related functions and activities and to furnish meals to the elderly, sixty years of age or older, of the district. Such utilization shall be subject to the approval of the board of education. Charges shall be sufficient to meet the direct cost of preparing and serving such meals, reducible by available reimbursements.

8. maintain discipline in the schools and programs under its jurisdiction.

9. appoint teacher-aides for the schools and programs under its jurisdiction.

10. employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be its attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York city charter; provided, however, that in actions or proceedings between community boards or between a community board and the city board, each community board may be represented by its own counsel.

11. submit, after a public hearing, proposals to the chancellor for construction, remodeling or enlargement of schools under its jurisdiction.

12. submit proposals directly to the mayor, the board of estimate, the council and the city planning commission of the city of New York in connection with the proposed capital budget.

13. select proposed sites for schools under its jurisdiction for submission to the New York city site selection board.

14. be consulted by the chancellor with respect to determining the requirements for each construction, remodeling or enlargement project in a school under its jurisdiction.

15. place qualified architects on a panel established by the city board on the basis of qualifications determined by it after consultation with the community boards.

16. select the architect for construction, remodeling or enlargement projects relating to a school under its jurisdiction

from several architects proposed by the city board the architect selected being instructed by him to work closely with the community board.

17. review preliminary architectural renderings and plans and recommend approval, rejection or modification of them by the chancellor.

18. be consulted by the chancellor in the establishment of rules, regulations and standards governing the qualification of bidders on projects exceeding twenty-five thousand dollars.

19. employ or assign personnel to assist the chancellor in expediting the processes by which approval of construction, remodeling and enlargement projects relating to schools under its jurisdiction is obtained.

20. a. require community board members, the community superintendent, and any other officer or employee in schools and programs under the jurisdiction of the community boards, to make disclosure, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, to the community board and the city board, within ninety days of the effective date hereof for the one-year period preceding such effective date, and subsequent to such effective date upon the occurrence thereof, of the following information:

(1) any direct or indirect interest of the person reporting or his or her spouse in the furnishing of any supplies or materials, or in the doing of any work or labor, including the provision of professional services, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any public or school moneys, or any employment, labor, compensation, direct or indirect interest, membership or relationship to any individual, firm, company, corporation, business, organization or association doing business with the city of New York or the city school district of the city of New York.

(2) the source of any income, reimbursement, gift or other form of compensation for services rendered together with a description of such services arising out of interest disclosed pursuant to paragraph (1) above.

b. willful failure to make full and timely disclosure shall constitute cause for removal from office of any member of a community board or for any other officer or employee disciplinary action and such other penalty as provided by law.

21. require community board members, the community superintendent and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the community boards to submit to the city board and the community boards, in accordance with regulations and bylaws of the city board developed in consultation with the community boards, financial

reports for themselves and their spouses.

a. The frequency and period of coverage, the designation of persons to submit such reports by name, title or income level or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the city board.

b. Willful failure to file required financial reports shall constitute cause for removal from office of any member of a community board or for any other officer or employee disciplinary action and such other penalty as provided by law.

Added L. 1969, c. 330, § 4.
As amended L. 1972, c. 772, § 5; L. 1973, c. 412, § 6; L. 1974, c.136, § 1; L. 1974, c. 217, § 6; L. 1975, c. 810, § 2.

2590-f. POWERS AND DUTIES OF COMMUNITY SUPERINTENDENTS

1. Except as otherwise expressly provided in this article, under the direction of his community board, each community superintendent shall have:

a. the same powers and duties with respect to the schools and programs under the jurisdiction of his community board as the superintendent of schools of the city district of the city of New York had on the effective date of this article; and

b. the power to delegate any of his powers and duties to such subordinate officers or employees of his community board as he deems appropriate and to modify or rescind any power and duty so delegated.

2. In exercising such powers and duties each community superintendent shall comply with all applicable provisions of law, bylaws, rules or regulations, directives or agreements of the city board, the chancellor and his community board and with the educational and operational policies established by the city board and his community board.

Added L. 1969, c. 330, §4.

2590-g. POWERS AND DUTIES OF THE CITY BOARD

The city board except as otherwise provided herein shall have all the powers and duties the interim board of education of the city district had on the effective date of this article, and shall determine all policies of the city district.

In addition the city board shall have power and duty to:

1. Approve determinations of the chancellor relating to course and curriculum requirements.

2. Approve determinations of the chancellor relating to estimates for operating and capital purposes of all the schools and

programs in the city district including all community districts.

3. approve determinations of the chancellor relating to site selection.

4. Hold public hearings on any matter relating to the educational welfare of the city school district or other matters within the scope of its responsibilities whenever required to do so by law, or whenever in its judgment the public interest will be served.

5. For all purposes, be the "government" or "public employer" of all persons appointed or assigned by the city board or the community boards.

6. Be the government or public employer of all persons appointed or assigned by the city board and the community boards for purposes of article fourteen of the civil service law; provided, however, they shall establish formal procedures under which the community boards will be consulted with respect to collective negotiations by the chancellor with employee representatives on matters which affect their interests. Any contract or contracts between the city board and any employee organization in effect on the effective date of this article shall continue to be binding on the city board and the community boards and any contracts entered into by it as the government or public employer thereafter shall be binding on the city board and the community boards.

7. Cause the chancellor to prepare an annual report of the affairs of the city school system.

8. Require each community board to make such number of periodic reports as may be necessary to accomplish the purposes of this chapter.

9. At any time subsequent to three years after the effective date of this article, transfer in its discretion any academic, vocational or comprehensive high school to the community board in whose community district such high school is located, whenever it determines the public interest will be served.

10. (a) Serve as appeal board as provided in section twenty-five hundred ninety-1 of this article. The president of the board shall serve as chief executive officer of such appeal board and shall have authority to direct that any appeal be considered and determined by a panel of three members designated by him.

(b) When sitting as an appeal board, it shall have such powers and duties with respect to the hearing and determination of appeals as the commissioner of education shall, by regulation, determine. The commissioner may assign to the appeal board on a temporary or permanent basis such personnel of the education department as he deems appropriate. The panel designated by the chairman shall have authority to stay temporarily, pending final determination by the appeal board:

(i) enforcement of an order of the chancellor from which the community board is appealing ; and

(ii) any action of the community board inconsistent with such order.

Upon final determination of an appeal under this section, the appeal board shall issue an order either:

(i) affirming the order of the chancellor; or

(ii) modifying or reversing such order if it is determined to be arbitrary or capricious or contrary to law, regulation, or sound educational policy.

(c) The chancellor or a community board or a removed or suspended community board member, if aggrieved by the final determination of the appeal board, may, within fifteen days of issuance of such determination appeal to the commissioner of education. Such appeal shall be determined by the commissioner solely upon the written record made before the appeal board, together with such memoranda or briefs as counsel for the parties may submit. Oral argument shall be permitted only in the discretion of the commissioner.

11. Provide for training and orientation sessions for new community board members to be held prior to the commencement of the term of office of such members.

12. (a) Establish and maintain special high schools which shall include the present high school known as:
The Bronx High School of Science, Stuyvesant High School, Brooklyn Technical High School and Fiorello H. LaGuardia High School of Music and the Arts and such further high schools which the city board may designate from time to time.

(b) Admissions to the Bronx High School of Science, Stuyvesant High School and Brooklyn Technical High School and such similar further special high schools which may be established shall be solely and exclusively by taking a competitive, objective and scholastic achievement examination, which shall be open to each and every child in the city of New York in either the eighth or ninth year of study, without regard to any school district wherein the child may reside. No candidate may be admitted to a special high school unless he has successfully achieved a score above the cut-off score for the openings in the school for which he has taken the examination. The cut-off score shall be determined by arranging the scores of all candidates who took the examination and who then commit themselves to attend the school in descending order from the highest score and counting down to the score of the first candidate beyond the number of openings available.

(c) Candidates for admission to the Fiorello H. LaGuardia High School of Music and the Arts, and other schools which may be established with similar programs in the arts, shall be required to pass competitive examinations in music and/or the arts in addition to presenting evidence of satisfactory achievement.

(d) The special schools shall be permitted to maintain a discovery program to give disadvantaged students of demonstrated high potential an opportunity to try the special high school program without in any manner interfering with the academic level of these schools. A student may be considered for the discovery program provided the student: (1) be one of those who takes the regular entrance examination but scores below the cut-off score, (2) is certified by his local school as disadvantaged, (3) is recommended by his local school as having high potential for the special high school program, and (4) attends and then passes a summer preparatory program administered by the special high school, demonstrating thereby his ability to successfully cope with the special high school program. All students recommended by their local school for such a discovery program are to be arranged on a list according to their entrance examination scores, in descending order, from the highest to the lowest. Each special high school will then consider candidates in turn, starting at the top of the list for that school. A candidate reached for consideration on the basis of his examination score will be accepted for admission to the discovery program only if his previous school record is satisfactory.

13. a. Prescribe regulations and bylaws requiring members of the city board, the chancellor, and any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor, to make disclosure to the city board, within ninety days of the effective date hereof for the one-year period preceding such effective date, and subsequent to such effective date upon the occurrence thereof, of the following information:

(1) any direct or indirect interest of the person reporting or his or her spouse in the furnishing of any supplies or materials, or in the doing of any work or labor, including the provision of professional services, or in the sale or leasing of any real estate, or in any proposal, agreement or contract for any of these purposes, in any case in which the price or consideration is to be paid, in whole or in part, directly or indirectly, out of any public or school moneys, or any employment, labor, compensation, direct or indirect interest, membership or relationship to any individual, firm, company, corporation, business, organization or association doing business with the city of New York or the city school district of the city of New York.

(2) the source of any income, reimbursement, gift or other form of compensation for services rendered together with a description of such services arising out of interest disclosed pursuant to paragraph (1) above.

b. Regulations and bylaws authorized herein shall apply with equal force and effect to community board members, community superintendents and all other officers and employees in schools and programs under the jurisdiction of the community boards.

c. willful failure to make full and timely disclosure shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as provided by law.

14. a. Prescribe regulations and bylaws requiring members of the city board, the chancellor and, for good cause shown, any other officer or employee in schools and programs under the jurisdiction of the city board and the chancellor, to submit to the the city board, in the discretion of the city board, financial reports for themselves and their spouses.

b. the frequency and period of coverage, the designation of persons to submit such reports by name, title or income level or by a combination thereof, and the content of such reports, including minimum dollar amounts, shall be determined by the city board and such reports may include but not necessarily be limited to the following:

(1) amount and source of income for services rendered, together with a description of such service;

(2) amount and source of gifts, capital gains, reimbursements for expenditures, and honoraria;

(3) investments in securities and real property;

(4) amount of debts and names of creditors;

(5) outstanding loans and other forms of indebtedness due to person reporting or spouse, by name and amounts;

(6) trusts and other fiduciary relationships and their assets in which a beneficial interest is held.

c. Regulations and bylaws authorized herein shall apply with equal force and effect to community board members, community superintendents and all other officers and employees in schools and programs under the jurisdiction of the community boards.

d. Willful failure to file required financial reports shall constitute cause for removal from office of any member of the city board or for any other officer or employee disciplinary action and such other penalty as provided by law.

15. Bring a cause of action in a civil court of competent jurisdiction in order to seek a judgment to recover damages from the parent or legal guardian, other than the state or a local social services department or a foster parent having custody over an infant over ten and less than eighteen years of age, who willfully, maliciously or unlawfully damages or destroys real or personal property owned or maintained by the school district. It shall be a defense to an action brought under this subdivision that restitution has been paid pursuant to section seven hundred fifty-eight-a of the family court act or paragraph (f) of subdivision two of section 65.10 of the penal law provided, however, that in no event shall it be a defense that the parent or legal guardian has exercised due diligent supervision over the activities of the infant. It shall also be a defense to an action brought under this section that such child had become emancipated from his parent or legal guardian prior to the occurence of such damage or destruction. No liability under this section shall exceed one thousand dollars.

Added L. 1969, c. 330, §4; amended L. 1970, c. 3, §6, eff. Jan. 13. 1970; As amended L. 1971, c. 1212, §1; L. 1974, c. 135, §1; L. 1975, c. 810, §1; L. 1977, c. 478, §7.

2590-h. POWERS AND DUTIES OF CHANCELLOR

The office of chancellor of the city district is hereby continued. It shall be filled by a person employed by the city board by contract for a term not to exceed by more than one year the term of office of the city board authorizing such contract, subject to removal for cause. The chancellor shall receive a salary to be fixed by the city board within the budgetary allocation therefor. He shall exercise all his powers and duties in a manner not inconsistent with the policies of the city board. He shall have all the powers and duties as the superintendent of schools of the city district,except as otherwise provided herein. He shall also have the power and duty to:

1. Control and operate:

(a) academic and vocational senior high schools until such time as the same may be transferred to the jurisdiction of appropriate community boards pursuant to this article;

(b) all specialized senior high schools;

(c) all special education programs and services conducted pursuant to this chapter prior to the effective date of this article;

(d) any city-wide programs which regularly provide services to a substantial number of persons from more than one community district, provided, however, that a community district may also operate within its district programs which provide similar services otherwise authorized by this article.

2. Establish, control and operate new schools or programs of the types specified in subdivision one of this section, or to discontinue any such schools and programs as he may determine provided, however, that he shall consult with the affected community board before:

(a) substantially expanding or reducing such an existing school or program within a community district;

(b) initially utilizing a community district school or facility for such a school or program;

(c) instituting any new program within a community district.

3. Subject to the approval of the city board, develop a plan to provide for the establishment of comprehensive high schools within the city district so that every community district shall have available to its graduates further education in a comprehensive high school. Such plan may provide for the conversion of academic and vocational high schools and may be amended or modified from time to time.

4. Appoint teacher-aides for the schools and programs under his jurisdiction within the budgetary allocation therefor.

5. Retain jurisdiction over all employees who are required in connection with the performance of duties with respect to the design, construction, operation and maintenance of all school buildings in the city school district. Such employees shall have all rights accorded them under the provisions of the civil service law, including manner of appointment, classification, promotion, transfer and removal including an opportunity to be heard provided, however, that each custodian shall be responsible for the performance of his duties to the principal of the school who shall be responsible to the district superintendent.

6. Employ or retain counsel subject to the powers and duties of the corporation counsel of the city of New York to be his attorney and counsel pursuant to subdivision a of section three hundred ninety-four of the New York City charter; provided, however, that in actions or proceedings between the city board and one or more community boards, it shall be represented by the corporation counsel of the city of New York.

7. To continue existing voluntary programs or to establish new programs under which students may choose to attend a public school in another community district.

8. Promulgate minimum education standards and curriculum requirements for all schools and programs throughout the city district and to examine and evaluate periodically all such schools and programs with respect to

(i) maintenance of such educational standards and curriculum requirements, and

(ii) evaluation of the educational effectiveness of such schools and programs; in a manner not inconsistent with the policies of the city board.

9. Furnish community boards and the city board periodically with the results of such examinations and evaluations and to make the same public.

10. Require each community board to make an annual report covering all matters relating to schools under its jurisdiction including, but not limited to, the evaluation of the educational effectiveness of such schools and programs connected therewith.

11. Require such community board to make such number of periodic reports as may be necessary to accomplish the purposes of this chapter.

12. Repealed.

13. Perform the following functions throughout the city district; provided, however, that the chancellor and any community board may agree that any such function may be appropriately performed by the

community board with respect to the schools and programs under its jurisdiction:

(a) Technical assistance to community boards;

(b) Such warehouse space on a regional basis as he determines to be necessary or appropriate after consultation with the community boards;

(c) Purchasing services on a city-wide, regional or community district basis.

14. Develop and furnish pre-service and in-service training programs for employees throughout the city district.

15. Establish a parents' association or a parent-teachers' association in each school under its jurisdiction to the extent practicable.

16. Promulgate such rules and regulations as he may determine to be necessary or convenient to accomplish the purposes of this act, not inconsistent with the policies of the city board.

17. Possess those described in section twenty-five hundred fifty-four of this chapter, the exercise of which shall be in a manner not inconsistent with the policies of the city board.

18. Possess those contained in section nine hundred twelve of this chapter and those provisions of article fifteen thereof which relate to non-public schools, those contained in sections five hundred twenty-two and five hundred twenty-four of the New York City charter and those contained in article seventy-three of this chapter, the exercise of which shall be in a manner not inconsistent with the policies of the city board.

19. Delegate any of his powers and duties to such subordinate officers or employees as he deems appropriate and to modify or rescind any power and duty so delegated.

20. Ensure compliance with qualifications established for all personnel employed in the city district, including the taking of fingerprints as a prerequisite for licensure and/or employment of such personnel. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed.

21. Perform the functions of the bureau of audit throughout the city district.

22. Establish uniform procedures for record keeping, accounting and reporting throughout the city district, including pupil record keeping, accounting and reporting.

Added L. 1969, c. 330, § 4; amended L. 1970, c. 3, § 7 eff. Jan. 13, 1970; As amended L. 1973, c. 664, § 1; L. 1974, c. 120, § 1; L. 1974, c. 136, § 2.

2590-i. BUDGETARY AND FISCAL PROCESSES

1. The chancellor shall annually advise the community boards with respect to the form and content of the budget requests and accompanying fiscal estimates required to be submitted by the mayor of the city of New York for the next ensuing fiscal year, together with such additional information as he may require.

2. Each community board, after public hearings, on the estimates prepared by its community superintendent shall, on such date as the chancellor shall direct,submit to the chancellor estimates of the total sum of money which such community board deems necessary for the performance of its functions during the next fiscal year of the city.

3. The chancellor, under the direction of the city board shall prepare the estimates for the schools and programs under the jurisdiction of the city board. In consultation with the community superintendents acting under the direction of their respective community boards, he shall also recommend increases, decreases, or modifications of the community boards' estimates. He shall prepare the estimates for the entire city district on such modified basis for adoption by city board, after consultation with the community boards and after a public hearing.

4. On such date as the mayor shall direct, the city board shall submit to the mayor:

(a) estimates, as adopted, of the total sum of money which it deems necessary for the operation of the city district (other than functions to be financed from funds provided for in the capital budget of the city) during the next fiscal year of the city, together with the estimates submitted by the community boards, as originally submitted and as modified pursuant to subdivision three of this section;

(b) estimates of the amount to be received as a result of the apportionment of moneys payable from the state in such fiscal year; and

(c) estimates of the amount to be received for school system expenditures by the city district in such fiscal year from sources other than appropriations of city funds or appropriations or other provisions of funds in the capital budget of the city or apportionment of moneys from the state payable in such fiscal year.

5. All estimates submitted by the city board shall be prepared in the manner prescribed by the New York city charter for submission of departmental estimates for current expenses to the mayor and shall set forth the total amounts proposed for programs or activities of the community board in units of appropriation separate from those set forth for programs or activities operated by the city board; provided, however, that nothing shall prevent the city board from including in such estimates a unit or units of appropriation to be allocated to it in its discretion, to community boards pursuant to subdivision ten of this section to finance innovative

programs or activities by such community boards.

6. In acting on the proposed units of appropriation for programs or activities of community boards, the board of estimate and city council of the city of New York may, subject to the veto of the mayor, increase or decrease the total amount of each such unit of appropriation but, notwithstanding any provision of the New York City charter or any other law to the contrary, they shall not have power to add any other unit or appropriation for one or more community boards.

7. (a) Upon the final adoption of the appropriation for the city district in each year, the city board through the chancellor shall allocate among the community boards the funds appropriated in the units of appropriation for the programs or activities of such boards on the basis of objective formulae established annually by the city board, after considering the recommendation of the chancellor and after consultation with the community boards and the mayor of the city of New York. Such formulae shall reflect the relative educational needs of the community districts to the maximum extent feasible.

(b) Not later than thirty days after the amount of such funds becomes determined by adoption of the budget pursuant to subdivision six, by allocation pursuant to subdivisions ten, eleven, fourteen and fifteen of this section, or otherwise, the chancellor shall transmit to each community board a statement enumerating the federal, state, city and private funds which have been allocated thereunder to such community board for its programs.

(c) At the same time, the chancellor shall transmit to the community boards a statement of the allocation of the balance of such funds to the several programs administered by him and the city board including the distinct amounts assigned to each category of schools and programs set forth in section twenty-five hundred ninety-i and the amount allocated for the operation of the city board, his office and the other administrative bureaus and divisions thereof.

8. The city board through the chancellor in consultation with the community boards and subject to the approval of the mayor of the city of New York shall develop and implement procedures for the establishment and subsequent modification of detailed schedules relating to the administration of appropriated funds allocated to the community boards on the basis of the formulae referred to in subdivision seven of this section. Such procedures, to the maximum extent feasible, shall be consistent with sound fiscal practices, permit each community board to develop such detailed schedules and to make changes in them in the course of a fiscal year without prior approval of the city board, the chancellor or the director of the budget, under appropriate general rules not inconsistent with applicable provisions of laws, by-laws, rules and regulations, directives and agreements, and the educational and operational policies of the city board, which rules shall:

(a) ensure consistency with minimum curriculum requirements and other policies required by or in accordance with applicable law and agreements; and

(b) prevent:

(i) the incurrence of liabilities or expenses in excess of the amount available therefor or otherwise not authorized by law; or

(ii) the use of unencumbered balances of appropriations of a fiscal year to assume obligations, including the initiation of programs and the employment of personnel, which may require larger appropriations in a subsequent fiscal year.

Modifications in such final approved detailed schedule shall require the same approvals as the final detailed schedule. No such modification in such schedules shall be made which will transfer funds available for personal services of members of the teaching and supervisory staffs, unless approved by the chancellor.

9. Special estimates to meet extraordinary expenses of emergencies which may arise in the course of a fiscal year may be submitted to the chancellor by any community board and, pursuant to subdivision six of section twenty-five hundred seventy-six of this chapter, the chancellor may, in its discretion, submit such special estimates to the mayor of the city of New York. The chancellor may also submit special estimates to the mayor in connection with the schools and programs under his jurisdiction.

10. Notwithstanding any provisions of law to the contrary, any moneys appropriated to or authorized for expenditure by the city board including moneys so appropriated to finance innovative programs or activities by community boards (but other than moneys so appropriated for the exercise of powers or duties reserved to the city board) may be allocated by the chancellor to any community board. Allocations made pursuant to this subdivision shall be based on the needs of the recipient community boards, considered in conjunction with the needs of the schools and programs under the jurisdiction of the city board, in the case of moneys appropriated for innovative programs or activities, the relative merit of the programs or activities by the respective community boards.

11. The chancellor shall perform all functions in connection with article seventy-three of this chapter; provided that the chancellor shall allocate to the community boards the state funds apportioned to the city district pursuant to article seventy-three, less the amount of such funds necessary to enable the chancellor to carry out his responsibilities, on the basis of an objective formula established by the city board annually, after consultation with the community boards and the mayor, which formula shall reflect the relative educational needs of the community districts to the maximum extent possible.

12. The chancellor shall perform all functions in connection with sections twenty-five hundred seventy-six, twenty-five hundred seventy-seven, twenty-five hundred seventy-nine, twenty-five hundred eighty-one, twenty-five hundred eighty-two, twenty-five hundred eighty-three and twenty-five hundred eighty-four of this chapter.

13. The city board through the chancellor shall perform all functions in connection with the capital budget as provided in chapter nine of the charter of the city of New York, except as otherwise provided herein.

14. With respect to special, federal, state and private funds, each community board may:

(a) contract for and receive funds to be transmitted to the city board and disbursed through the chancellor. No special funds may be used as a means of bringing about the elimination of existing personnel lines, titles or employees. Community boards may use budget funds allocated and resources obtained within the scope of existing law and contractual obligations to design programs of educational excellence tailored to the needs and peculiar characteristics of the district;

(b) enter into contracts necessary or convenient to the discharge of the powers and duties with the city, state and federal governments, private foundations, agencies and individuals, the city board and other community boards subject to the approval of the chancellor;

(c) in the case of federal or state funds not allocated to the city district on a formula basis, to apply to the funding agency, as a local educational agency, and to accept any funds granted or apportioned in this connection for its use and account, provided, however, that as to federal funds available to areas affected by federal activities pursuant to public law eight hundred seventy-four, community boards shall not be considered local educational agencies and shall have no power to apply directly to the funding agency but such funds shall be reallocated to community boards by the chancellor in accordance with a formula determined by the city board as provided in subdivision ten of this section; and

(d) in the case of special funds allocated to the city district on a formula basis, to submit proposals to the chancellor for a review as to form only and prompt transmittal to the funding agency; provided, however, that in the case of such special funds community boards shall not be considered local educational agencies; and provided further that the total amount of such proposals submitted by any community board shall not exceed the amount of an apportionment made by the chancellor on the basis of a formula determined by the city board, after considering the recommendation of the chancellor and after consultation with community boards and the mayor, which formula reflects the same ed-

ucational and economic factors as the formula for apportionment of such special funds to the city district; and provided further that each community board shall consult fully with non-public school authorities on a continuing basis with respect to any of such special funds applicable to non-public school programs and students subject to the power and duty of the city board through the chancellor to ensure that applicable provisions of State and federal law and regulations with respect to programs for students in attendance at non-public schools throughout the city district shall be carried out.

15. With respect to special, federal, state and private funds, the chancellor shall provide community boards with information about the availability of such funds and furnish technical assistance with respect to the preparation of proposals, record keeping and the administration of such programs.

16. On or before October first of each year, the city board shall submit to the commissioner, in the form to be prescribed by him, the annual budget for the city district for the current fiscal year.

Added L.1969, c.330, § 4
As amended L.1971, c.546, eff. June 17, 1971; L.1971, c.1003, eff. July 2, 1971

2590-j. APPOINTMENT AND REMOVAL OF PERSONS IN THE TEACHING AND SUPERVISORY SERVICE

1. Persons in the teaching and supervisory service in all schools in the city system shall be appointed as prescribed by this section.

2. The chancellor shall promulgate minimum education and experience requirements for all teaching and supervisory service positions which shall not be less than minimum state requirements for certification, and with the approval of the city board shall create and abolish the titles of all positions in the teaching and supervisory service.

3. (a) (1) The board of examiners shall prepare and administer objective examinations to determine the merit and fitness of all candidates for teaching and supervisory service positions, other than the positions of chancellor, executive deputy city superintendent, deputy city superintendent, assistant city superintendent and community superintendent. Examinations for teaching positions may consist in part of the National Teachers Examination administered by the Educational Testing Service of Princeton, New Jersey.

(2) The board of examiners shall cause a verbatim record of all interview tests to be made, and shall furnish a transcript thereof to each failing candidate requesting the same at a reasonable fee.

(b) (1) Examinations for teaching positions shall be open competitive.

(2) Examinations for all supervisory service positions shall be open qualifying.

(3) The board of examiners may establish an eligible list for any class of positions for which it finds inadequate numbers of qualified persons available for recruitment. Such examinations shall, so far as practicable, be constructed and rated so as to be equivalent. Candidates who pass any such examination and who are otherwise qualified shall be placed on such list in the rank corresponding to their grade. The period of eligibility of successful candidates for certification and appointment from such lists as a result of any such examination shall be fixed by the chancellor, but, except as a list may reach an announced terminal date, such period shall not be less than one year. Subject to such conditions as the chancellor may prescribe, a candidate may take more than one such examination; provided, that no such candidate shall be listed with more than one rank on any one such list.

(c) All lists of eligibles for supervisory or administrative positions which are in existence and which were placed in abeyance, and appointments from which were prohibited by a temporary restraining order of the United States District Court on the twenty-third day of July nineteen hundred seventy-one, or the preliminary injunction of the said court dated September seventeenth, nineteen hundred seventy-one, continuing such prohibition, and of which lists those that are scheduled to expire prior to March first nineteen hundred seventy-five, shall be deemed extended to March first, nineteen hundred seventy-five, as though such were the date on which such lists were originally scheduled to terminate or expire.

4. (a) The chancellor shall appoint and assign teachers for all schools and programs under the jurisdiction of the city board from persons on competitive eligible lists.

(b) The chancellor shall appoint and assign all supervisory personnel for all schools and programs under the jurisdiction of the city board from persons on qualifying eligible lists.

(c) Each community board shall appoint teachers for all schools and programs under its jurisdiction who are assigned to the district by the chancellor from competitive eligible lists. Insofar as practicable the chancellor, when making such assignments shall give effect to the requests for assignment of specific persons by the community board. The community board shall appoint such teachers to schools within such district within thirty days if such appointment is to be effective on a date subsequent thereto and within three days if such appointment is to be effective immediately.

(d) Each community board shall appoint and assign all supervisory personnel for all schools and programs under its jurisdiction from persons on qualifying eligible lists.

(e) All persons on an existing competitive eligible list for elementary school principal shall be appointed to such position prior to April first, nineteen hundred seventy.

(f) All future eligible lists established pursuant to this section shall remain in force and effect for a period of four years, and no appointments shall be made from any eligible list unless every such list promulgated prior thereto shall be exhausted or expired, whichever first occurs.

5. (a) The chancellor shall cause a comprehensive reading examination to be administered to all pupils in all schools under the jurisdiction of the community districts annually. Prior to October first of every year each school shall be ranked in order of the percentage of pupils reading at or above grade level as determined by such examination, in accordance with rules to be promulgated by the chancellor.

(b) If the ranking of a school under the jurisdiction of a community district falls in the lower forty-five percent of the ranking of all such schools, as provided in paragraph (a), the community board of such school (hereinafter called an eligible school) may appoint teachers to such school in conformity with this subdivision, any other provision of this section or chapter notwithstanding, provided, that in the first year during which this paragraph is operative, only a school in the lower forty percent shall be an eligible school.

(c) The board of each eligible school may, between October first in the year in which the foregoing examination was administered and the following May first, appoint any person a teacher in such school for the school year commencing in September of the year following such examination without regard to any competitive eligibility lists established pursuant to this section, provided that such person, will on the effective date of such appointment, have the education and experience qualifications for certification as a teacher pursuant to article sixty-one and shall have:

(i) passed a qualifying examination to be prepared and administered by the board of examiners, such examination to be equivalent in all respects to examinations given by such board pursuant to subdivision three, or be on an existing competitive eligible list for such position; or

(ii) passed the National Teachers Examination within the past four years at a pass mark equivalent to the average pass mark required of teachers during the prior year by the five largest cities in the United States which use the National Teachers Examination as a qualification, as determined by the chancellor.

This paragraph shall not restrict the right of the chancellor to establish appropriate medical requirements for all teachers. The chancellor shall cause the National Teachers Examination to be offered at reasonable intervals at one or more cities in the commonwealth of Puerto Rico.

(d) Such board may waive its rights under paragraph (c) and elect to appoint teachers under paragraph (c) of subdivision four.

(e) All teachers appointed under paragraph (c) of this subdivision shall for all purposes, have the same status, rights and duties as teachers appointed under paragraph (c) of subdivision four.

6. If a vacancy exists for a teaching position in any community district for which there are no names on any appropriate eligible list in force, such district may appoint and assign any person to fill such position who complies with paragraph (c) of subdivision five.

6-a. (a) Notwithstanding any other provision of law, any person who has served continuously as a substitute teacher in the schools of the city system since the fourteenth day of September, nineteen hundred seventy shall be appointed to probationary service in the school he is serving in as of June first, nineteen hundred seventy-two provided a vacancy exists in the school for the school year commencing September nineteen hundred seventy-two and provided his name appears on an appropriate eligible list in existence on June first, nineteen hundred seventy-two without regard to his relative standing on such list, and thereafter he shall be subject to all the existing provisions of law and negotiated agreements in the same manner as any other appointee.

(b) Notwithstanding any other provision of law, persons awaiting appointment from eligible lists shall be assigned and appointed in ranked order by the city board on September sixth, nineteen hundred seventy-two to those vacancies which were in existence on June first, nineteen hundred seventy-two and continued to be in existence on September sixth, nineteen hundred seventy-two.

7. Each community board shall have authority and responsibility with regard to trials of charges against any members of the teaching or supervisory service staffs of the schools within its jurisdiction as follows:

(a) No such employee who has served the full and appropriate probationary period prescribed by, or in accordance with law, shall be found guilty of any charges except after a hearing, as provided by section three thousand twenty-a of this chapter.

(b) Charges may be initiated by the community superintendent against any such employee for any of the following offenses:

(1) Unauthorized absence from duty or excessive lateness;

(2) Neglect of duty;

(3) Conduct unbecoming his position, or conduct prejudicial to the good order, efficiency or discipline of the service;

(4) Incompetent or inefficient service;

(5) A violation of the by-laws, rules or regulations of the city board, chancellor, or the community board; or

(6) Any substantial cause that renders the employee unfit to perform his obligations properly to the service.

(c) The community superintendent, in advance of the filing of charges and specifications, shall inform the employee accused and the community board of the nature of the complaint. No charges shall be brought more than six months after the occurence of, the discovery thereof, or the date when discovery should have occurred upon the exercise of due diligence, of the alleged incompetency or misconduct except where the charge is of misconduct constituting a crime when committed.

(d) Upon the service of a copy of the charges upon such employee and the filing thereof with the community board, the community superintendent may recommend to the chancellor the suspension of any such employee. If the chancellor shall determine that the nature of the charge requires the immediate removal of the employee from his assigned duties, he may suspend such employee for a period not exceeding ninety days pending hearing and determination of charges, provided, however, that such employee shall be entitled to received full compensation during the period of suspension. In case the employee is acquitted, he shall be restored to his position.

8. The community superintendent may transfer members of the teaching and supervisory service without their consent within the district for the following reasons only:

(a) Disciplinary action pursuant to subdivision seven of this section,

(b) Excess staff in a specific school,

(c) To staff a new school, or

(d) To fill a vacancy in another school within the district; provided, however, (i) that such transfers shall be made in inverse order of seniority in the school from which made, (ii) that the school to which the person is transferred has a higher number of vacant positions subsequent to such transfer that the school from which transferred, (iii) that there is no appropriate eligible list for such position, (iv) that no other qualified person within the district makes application to fill such position, and (v) such vacancy has existed for at least two weeks.

In exercising the power granted in paragraphs (b) and (c), hereof the community superintendent shall comply with all collective negotiation agreements.

9. (a) Notwithstanding any other provision of law, appointments of persons to vacancies in teaching positions in the city system shall be made in the following order:

(1) Persons who have been displaced from other positions and persons on preferred lists, in accordance with the provisions of section twenty-five hundred eighty-eight of this chapter.

(2) Persons on eligible lists who served as regular substitutes in the license area of the list for any two semesters between the opening of school in September of nineteen hundred seventy-three and the closing of school in June of nineteen hundred seventy-six.

(3) All other persons, as otherwise provided in this chapter.

(4) Nothing contained in subparagraphs two or three of this subdivision shall be construed to prevent a community board of an eligible school as defined in subdivision five of this section from electing to appoint persons in the manner authorized in said subdivision.

(b) Appointments pursuant to subparagraph two of paragraph (a) of this subdivision shall be made in the manner prescribed in subdivision ten of section twenty-five hundred seventy-three of this chapter and in subdivision four of this section as if the persons covered by such subparagraphs constituted the entire list.

Added L. 1969, c. 330 § 4
As amended L. 1971, c. 790; L. 1972, c. 144, § 1; L. 1972, c. 162 § 1; L. 1972, c. 718, § 1; L. 1973, c. 34, § 1; L. 1973, c. 147, § 1; L. 1974, c. 21, § 1; L. 1974, c. 135, §§ 2, 3; L. 1975, c. 293, § 2; L.1976, c. 521, §§ 4, 5; L. 1977, c. 82, § 3.

2590-k. CONTRACTS WITH CITY UNIVERSITY OF NEW YORK FOR ADMINISTRATION OF HIGH SCHOOLS

1. The city board and the city university of New York are hereby authorized and empowered to enter into a contract or contracts whereby such university will administer not more than five high schools under the jurisdiction of the city board selected from among those schools which exhibit the greatest degree of disadvantage as measured by such factors as the proportion of students earning general diplomas, the percentage of students reading below grade level, the attrition rate, the proportion of students residing in officially designated poverty areas, and similar measures.

2. Such contract may provide for the delegation by the city board of any of its functions, powers, and duties or of a community board, or those of the chancellor or a community superintendent, in connection with the operation of such high schools, to the city university of New York, except the power to appoint or terminate the employment of any employee. The terms and conditions of employment shall continue to remain under the jurisdiction of the city board.

3. The provisions of section sixty-two hundred nine of this chapter with respect to the apportionment of public school moneys

shall be applicable to the high schools included in any such contract or contracts. (Added L.1969, c.330, § 4.)

2590-1. ENFORCEMENT OF APPLICABLE LAW, REGULATIONS AND DIRECTIVES; ESTABLISHMENT OF APPEAL BOARD

1. If in the judgment of the chancellor any community board fails to comply with any applicable provisions of law, by-laws, rules or regulations, directives and agreements, and after efforts at conciliation with such community board have failed, he may issue an order requiring the community board to cease its improper conduct or to take required action and consistent with the provisions of this article and the educational and operational policies of the city board, may enforce that order by the use of appropriate means, including:

(a) supersession of the community board by the chancellor or a trustee appointed by him with respect to those powers and duties of such community board deemed necessary to ensure compliance with the order; and

(b) suspension or removal of the community board or any member or members thereof.

2. the community board or any suspended or removed member thereof may,within fifteen days after issuance of such order, file an appeal with the city board acting as an appeal board pursuant to subdivision ten to section twenty-five hundred ninety-g.

Added L.1969, c.330, § 4.

2590-m. CUSTODY AND DISBURSEMENT OF FUNDS

1. Public moneys apportioned to the city district by the state and all funds raised or collected by the authorities or such city for school purposes or to be used by the city board or by any community board for any purpose authorized by this chapter, or any other funds belonging to the city district or a community district and received from any source whatsoever for school purposes, shall be paid into the city treasury and shall be credited to the city board or to the respective community boards.

2. the fund so received into such treasury shall be kept separate and distinct from any other funds received therein. The officer having charge thereof shall give such additional security for the safe custody thereof as the corporate authorities of the city of New York shall require.

3. a. Funds credited to the city board shall be disbursed upon written orders of the director of finance of the city signed by the chancellor or such other officer or officers as the city board authorize. Funds credited to a community board shall be disbursed upon written orders of the director of finance of the city signed by the community superintendent and such other officer or officers as such board may authorize.

c. Payments from such funds shall be made only by checks signed by the director of finance of the city and payable to the person entitled thereto and countersigned by the comptroller of the city of New York.

5. Fixed salaries, principal of and interest on indebtedness and amounts becoming due upon lawful contracts for periods exceeding one year may be disbursed without prior audit by the city board or the board to which such funds are credited.

6. The city board and each board referred to in this section shall make, in addition to such classification of its funds as is desires for its own use and information, such further classification of the funds credited to it and of the disbursement thereof as the comptroller of the city of New York shall require; provided that the classification of funds by community boards shall be in accordance with the altered schedules developed pursuant to subdivision eight of section twenty-five hundred ninety-i of this article. The city board and community boards shall furnish such data in relation to such funds and their disbursements as the comptroller of the city of New York shall require.

7. The comptroller of the city of New York shall audit the accounts of the city board and each community board.

Added L.1969, c.330, § 4.

2590-n. TRANSITIONAL PROVISIONS

1. Subject to the provisions of this article, within sixty days after the effective date of this article, the interim board of education through the chancellor shall transfer to each community board all city district employees serving in or in connection with the schools and programs which are subject to the jurisdiction of such community board and shall retain all employees serving in or in connection with the schools aid programs which are continuing under its jurisdiction. The interim board through the chancellor shall also either transfer to appropriate community boards or retain:

(a) such teaching and supervisory personnel who shall be unassigned at such time; and

(b) any city district employees not transferred pursuant to other provisions of this subdivision.

2. All employees having tenure shall be transferred to such community boards or retained by the interim board as provided in this section without further examination or qualification and without diminution of pay or rank in accordance with the provisions of this section.

3. All probationary personnel transferred to community boards or retained in accordance with the provisions of this

section shall receive full credit for any probationary service rendered prior to the transfer date and shall be so transferred without diminution of pay or rank.

4. If, at any time after the effective date of this article, the city board or any community board employs as a member of the teaching or supervisory staff in the schools and programs under its jurisdiction a person previously employed by the interim board, the city board or a board within the city district, such person shall be granted:

(a) tenure on the basis of tenure in the city district prior to the transfer date; or

(b) prior service credit toward the achievement of tenure on the basis of probationary service in the city district immediately prior to the transfer date if such service continued without substantial interruption until the date of the new employment. When the city board or a community board employs a member of the teaching or supervisory service for another board after the transfer date, the employing board shall grant such member tenure or prior service credit.

5. The chancellor shall cause to be transmitted to each community board copies of such books, papers and records of the interim board pertaining to the powers and duties transferred to the community board as he determines to be appropriate.

6. For the purpose of succession to all powers and duties transferred to community boards, each community board shall be deemed to constitute a continuation of the city board, and not a different agency or authority.

7. Any business or other matter undertaken or commenced by the interim board or the city board pertaining to or connected with the powers and duties transferred to community boards, and pending on the effective date of this article, may be conducted and completed by such community boards in the same manner, under the same terms and conditions and with the same effect as if conducted and completed by the interim board or the city board.

8. Whenever the city board, the chancellor or the city superintendent is referred to or designated in any provisions of law, by-laws, rules or regulations, directives, agreements, orders or other documents pertaining to the powers and duties transferred to the community boads pursuant to the provisions of this article, such reference or designation shall be deemed a reference to or designation of the appropriate community board of its community superintendent, respectively, except as otherwise provided in this article. Any provision of the New York city charter or of this chapter relating to the removal of members of the city board shall also apply with the same force and effect to members of each community board.

9. Except as otherwise required under the provisions of this article:

(a) nothing contained herein shall affect or impair any action done or right or remedy accruing, accrued or acquired, or any penalty, forfeiture of punishment incurred, prior to the transfer date, under or by virtue of any provision of this chapter of any other statute then in force, but the same may be asserted and enforced, prosecuted or inflicted as fully and to the same extent as if this article had not taken effect; and

(b) any provision of law prescribing any requirements or conditions with respect to the making of claims or bring actions or proceedings against the city board shall also apply with the same force and effect to each community board.

10. In any case, when, but for the enactment of this subdivision, any community board would be liable in tort to any person, such community board shall not be liable therefor and the city board shall be liable therefor in the place and stead of such community board and any claim, action or proceeding which could, but for the enactment of this subdivision, have been asserted or brought against a community board by reason of such tort, may instead be asserted or brought against the city board.

11. Funds to meet expenses of community boards incurred prior to July first, nineteen hundred seventy may be made available to such boards:

(a) by the interim board or the city board through the chancellor in his discretion, from funds appropriated or authorized for expenditures by them other than funds provided for in the capital budget of the city of New York; and

(b) in the discretion of such city, by appropriation of funds in the city's expense budget or modification of such budget.

Added L.1969, c.330, § 4